

ASSEMBLY BILL

No. 1193

Introduced by Assembly Member Ruskin

February 23, 2007

An act to add Article 10.2.2 (commencing with Section 25214.8.10) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1193, as introduced, Ruskin. Mercury-added thermostats: collection program.

(1) Existing law prohibits, on and after January 1, 2006, a person from selling, offering to sell, or distributing for promotional purposes, in this state, a mercury-added thermostat, as defined, unless the mercury-added thermostat meets specified criteria. A violation of the hazardous waste control laws is a crime.

This bill would enact the Mercury Thermostat Collection Act of 2007 and would require a manufacturer that sold mercury-added thermostats in this state before January 1, 2006, and that sells thermostats in this state on and after January 1, 2008, to establish and maintain a collection and recycling program for out-of-service mercury-added thermostats. The act would prohibit a manufacturer from selling a thermostat in this state on and after July 1, 2008, unless the manufacturer complies with the act and would prohibit a person, on and after July 1, 2008, from selling a thermostat in this state if the manufacturer of that thermostat is subject to, and is not in compliance with, the act. Since a violation of the act's requirements would be a crime, the bill would impose a state-mandated local program by creating new crimes.

The bill would require a collection and recycling program for out-of-service mercury-added thermostats to meet certain requirements, including achieving an annual rate for the collection of mercury from mercury-added thermostats and implementing a manufacturer financial incentive plan providing a financial incentive for the return of each mercury-added thermostat to an authorized mercury-added thermostat collection point. The Department of Toxic Substances Control would be required, by July 1, 2008, to adopt regulations for the establishment and implementation of the manufacturer financial incentive plan, which would require on and after January 1, 2009, that a financial incentive be provided for the collection of mercury-added thermostats from contractors and service technicians, and on and after January 1, 2010, that a financial incentive be provided for the collection of mercury-added thermostats from homeowners. The bill would require the financial incentive to be set at a minimum of \$5, but would require the department to decrease that amount if it makes a certain determination.

The act would require each program to submit an annual report to the department regarding the collection of mercury-added thermostats and the department would be required to submit an annual report to the Legislature on the implementation of the act in collecting and recycling mercury-added thermostats.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 10.2.2 (commencing with Section
2 25214.8.10) is added to Chapter 6.5 of Division 20 of the Health
3 and Safety Code, to read:

4
5 Article 10.2.2. Mercury Thermostat Collection Act of 2007

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7 25214.8.10. (a) The Legislature finds and declares all of the
8 following:

1 (1) According to a 2004 study by the Environmental Protection
2 Agency, more than 10 percent of the estimated mercury reservoir
3 still currently in use in the United States resides in mercury-added
4 thermostats.

5 (2) State law bans the sale of new mercury-added thermostats
6 for most uses after January 1, 2006, but the long lifetime of
7 thermostats means that many of them are still in use.

8 (3) In 2000, the largest thermostat makers, General Electric,
9 Honeywell and White Rodgers, established the Thermostat
10 Recycling Corporation (TRC) to run a program for collecting waste
11 mercury-added thermostats. Under the TRC program, thermostat
12 wholesalers volunteer to place bins where heating, ventilation, and
13 air conditioning (HVAC) contractors can drop off thermostats.

14 (4) Currently, less than ____ percent of the mercury-added
15 thermostats removed from buildings in state is turned in to the
16 TRC collection program, according to TRC collection estimates.

17 (5) Companies that historically manufactured and sold
18 mercury-added thermostats in California before 2006 have a
19 responsibility to recover discarded mercury thermostats and assure
20 that they are properly handled and recycled.

21 (b) This article shall be known, and may be cited, as the
22 “Mercury Thermostat Collection Act of 2007.”

23 25214.8.11. For purposes of this article, the following
24 definitions shall apply:

25 (a) “Manufacturer” means a business concern that sold
26 mercury-added thermostats in this state before January 1, 2006,
27 that were made by the business concern, and that sells thermostats
28 in this state that are made by that business concern, on and after
29 January 1, 2008, that are not mercury-added thermostats.

30 (b) “Mercury-added thermostat” has the same meaning as
31 defined in paragraph (2) of subdivision (b) of Section 25214.8.1.

32 (c) “Out-of-service mercury added thermostat” means a
33 mercury-added thermostat that is removed from a building or
34 facility in this state and is intended to be discarded.

35 (d) “Thermostat” means a product or device that uses a switch
36 to sense and control room temperature through communication
37 with heating, ventilating, or air-conditioning equipment.
38 “Thermostat” includes a thermostat used to sense and control room
39 temperature in residential, commercial, industrial, and other

1 buildings, but does not include a thermostat used to sense and
2 control temperature as part of a manufacturing process.

3 25214.8.12. (a) A manufacturer shall not sell a thermostat in
4 this state on and after July 1, 2008, unless the manufacturer
5 establishes and maintains a collection and recycling program for
6 out-of-service mercury-added thermostats in compliance with this
7 article. The collection and recycling program may be established
8 by an individual manufacturer or collectively with other
9 manufacturers, but the program shall meet all of the requirements
10 of Section 25214.8.13.

11 (b) On and after July 1, 2008, a person shall not sell a thermostat
12 in this state if the manufacturer of that thermostat is subject to,
13 and is not in compliance with, this article.

14 25214.8.13. A collection and recycling program for
15 out-of-service mercury-added thermostats shall meet all of the
16 following requirements, in accordance with the regulations adopted
17 by the department pursuant to this article:

18 (a) The program achieves the following rate of collection of
19 mercury-added thermostats:

20 (1) On and after January 1, 2009, the program collects no less
21 than 125 pounds of mercury annually from mercury-added
22 thermostats.

23 (2) On and after January 1, 2012, the program collects no less
24 than 160 pounds of mercury annually from mercury-added
25 thermostats.

26 (b) The mercury-added thermostats collected by the program
27 are collected, handled, and recycled in compliance with this chapter
28 and the regulations adopted pursuant to this chapter.

29 (c) Authorized bins for mercury-added thermostat collection
30 are made available at all heating, ventilation, and air conditioning
31 supply locations, electrical supply locations, and plumbing supply
32 distributor locations that sell thermostats that are sold by a
33 manufacturer subject to this article.

34 (d) On and after January 1, 2009, the program makes available
35 authorized bins for mercury-added thermostat collection to any
36 local agency that requests a bin for mercury-added thermostat
37 collection at a household hazardous waste collection facility or
38 event, if the facility or event is authorized by the department for
39 the collection of mercury-added thermostat.

1 (e) (1) On and after January 1, 2009, the program implements
2 phase 1 of the manufacturer financial incentive plan adopted by
3 the department, by providing a financial incentive for the return
4 of each mercury-added thermostat by a contractor or service
5 technician to an authorized mercury-added thermostat collection
6 point.

7 (2) On and after January 1, 2010, the program implements phase
8 2 of the manufacturer financial incentive plan adopted by the
9 department, by providing a financial incentive for the return of
10 each mercury-added thermostat by a homeowner to an authorized
11 mercury-added thermometer collection point.

12 (f) On and after January 30, 2008, and by January 30 annually
13 thereafter, the program submits an annual report to the department
14 that includes all of the following:

15 (1) The number of mercury-added thermostats collected and
16 recycled by the program pursuant to this article during the previous
17 calendar year.

18 (2) The estimated total amount of mercury contained in the
19 thermostat components collected by the program pursuant to this
20 article.

21 (3) An evaluation of the effectiveness of the program and the
22 financial incentives provided pursuant to subdivision (e).

23 (4) An accounting of the administrative costs incurred in the
24 course of administering the program and the financial incentive
25 plan developed pursuant to subdivision (e).

26 25214.8.14. On or before July 1, 2008, the department shall
27 adopt regulations for the establishment and implementation of a
28 manufacturer financial incentive plan, which shall be developed
29 in accordance with all of the following:

30 (a) (1) Phase 1 of the plan shall require, on and after January 1,
31 2009, a financial incentive to be provided for the collection of
32 mercury-added thermostats from contractors and service
33 technicians.

34 (2) Phase 2 of the plan shall require, on and after January 1,
35 2010, a financial incentive to be provided for the collection of
36 mercury-added thermostats from homeowners.

37 (b) The department shall develop the plan in consultation with
38 a stakeholder group that includes representatives from the
39 thermostat industry, environmental groups, thermostat wholesalers,
40 and service contractors.

(c) (1) Except as provided in paragraph (2), the plan shall require that a financial incentive with a minimum value of five dollars (\$5) be provided to each eligible person who returns a mercury-added thermostat to an authorized collection point.

(2) The department shall decrease the amount of the financial incentive required to be provided pursuant to this section if it determines that the five dollar (\$5) financial incentive is excessive and unreasonable, in which case the department shall set the amount of the financial incentive in a fair and reasonable amount needed to encourage the return of mercury-added thermostats.

(3) The financial incentive may include, but is not limited to, cash, rebates, discounts, coupons, or other incentives, as approved by the department.

(d) The plan shall ensure, to the maximum extent practical, that all of the following occur:

(1) The plan maximizes the capture rate of out-of-service mercury-added thermostats.

(2) The plan provides adequate incentives and education to contractors, service technicians, and homeowners to encourage return of thermostats to established recycling collection points.

(3) The plan minimizes administrative costs.

(4) The plan encourages the purchase of nonmercury thermostats that qualify for the Energy Star program of the Environmental Protection Agency, as replacements for mercury-added thermostats.

(5) The plan includes mechanisms to protect against the fraudulent return of thermostats.

25214.8.15. On and before July 1, 2008, and on or before July 1 annually thereafter, the department shall submit a report to the Legislature on the implementation of this article in collecting and recycling mercury-added thermostats in the state.

(a) The report submitted on July 1, 2008, shall include a description and discussion of the financial incentive plan proposed to be established pursuant to this article and recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats.

(b) The reports submitted on and after July 1, 2009, shall include an evaluation of thermostat collection and recycling programs established pursuant to this article, information on actual collection rates, and recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats.

1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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